



**RCA
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 13
AGENDA DATE: Thu 03/23/2006
PAGE: 1 of 1**

SUBJECT: Approve a resolution authorizing the filing of eminent domain proceedings for the Onion Creek/South Lower Boggy Phase II Project, a portion of the Austin Clean Water Program, to acquire a 109 square foot permanent access easement and a 1,328 square foot permanent access easement both out of Lot 1, Block A, Beaconridge VII, a Subdivision in the City of Austin, in the amount of \$1,437. The owners of the needed property interests are H. Michael Giles and PARMER 6, LTD., of Austin, TX. The property is located at the southeast corner of South 1st Street and Dittmar Road, Austin, Travis County, Texas.

AMOUNT & SOURCE OF FUNDING: Funding is included in the Fiscal Year 2005-2006 Capital Budget of the Austin Water Utility.

FISCAL NOTE: A fiscal note is attached.

REQUESTING Public Works **DIRECTOR'S**
DEPARTMENT:for Austin Water Utility; **AUTHORIZATION:** Sondra Creighton

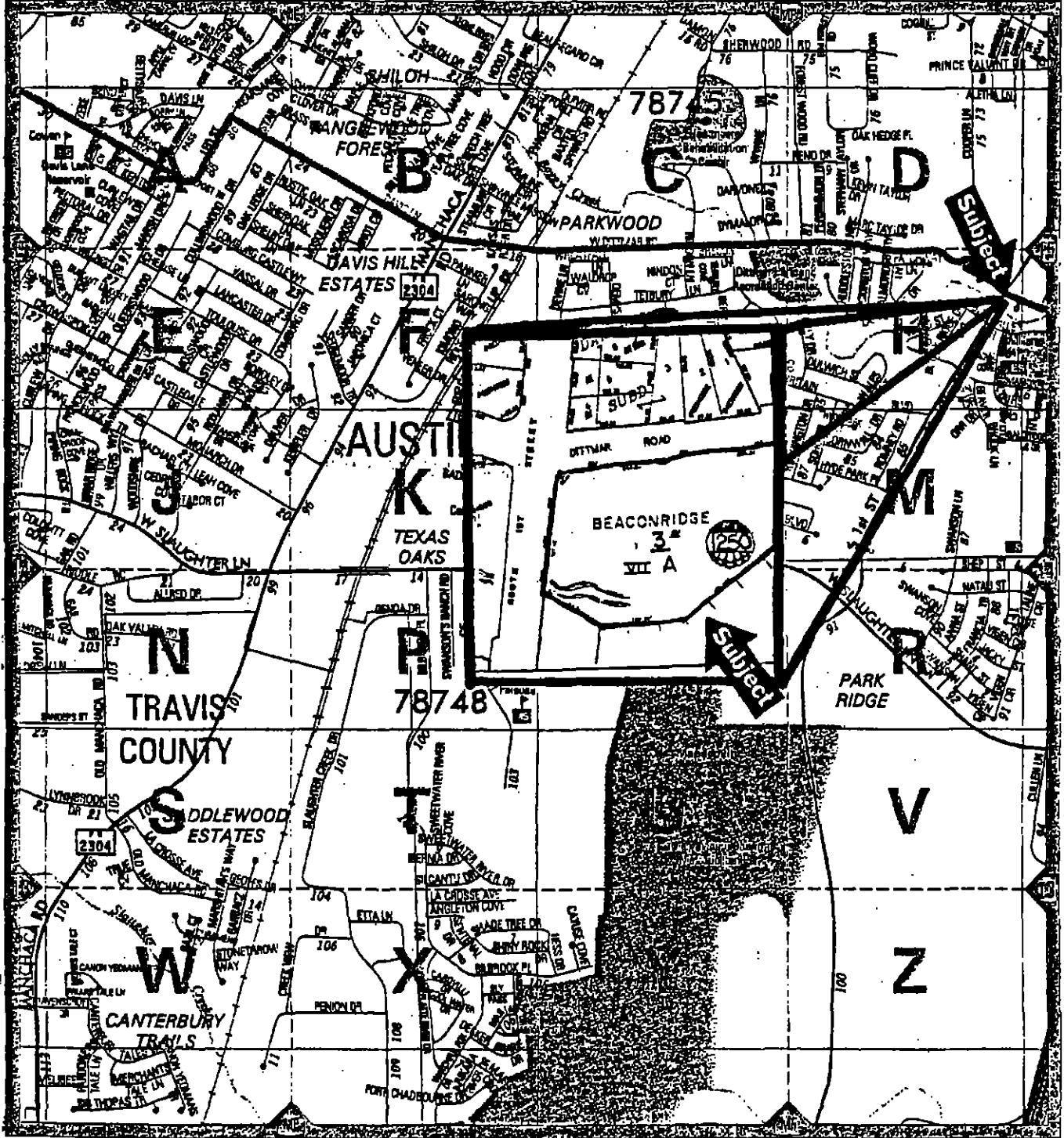
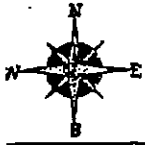
FOR MORE INFORMATION CONTACT: Lauraine Rizer, 974-7078; Laura Bohl, 974-7064

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

The design plans for the Onion Creek/South Lower Boggy Phase II Project, a portion Austin Clean Water Program, require the acquisition of two permanent access easements on the property located at the southeast corner of South 1st Street and Dittmar Road, Austin, Travis County, Texas.

The City of Austin has attempted to purchase the two permanent access easements from the landowners and the parties have agreed on an appropriate price. However, the property title is not curable through standard processes and will require friendly condemnation. The Law Department requests authorization to file a lawsuit in eminent domain on behalf of the City of Austin.



**CIP
FISCAL NOTE**

DATE OF COUNCIL CONSIDERATION:
WHERE ON AGENDA:
DEPARTMENT:

3/23/2006
Resolution
Austin Water Utility

DESCRIPTION:

Approve a resolution authorizing the filing of eminent domain proceedings for the Austin Clean Water Program: Onion Creek Lower South Boggy Phase II Project to acquire a permanent access easement comprising 103 square feet of land and a permanent access easement comprising 1,326 square feet of land out of Lot 1, Block A, Beaconridge VII, a Subdivision in the City of Austin, in the amount of \$1,437. The owners of the property sought to be condemned are H. Michael Giles and PARMER 6, LTD., of Austin, TX. The property is located at the southeast corner of South 1st Street and Dittmar Road, Austin, Travis County, Texas.

FINANCIAL INFORMATION:

| | |
|------------------------|---------------------------------|
| Parent Project Name: | Wastewater Unfunded Future |
| Project Authorization: | 2005-06 Approved Capital Budget |
| Funding Source: | Commercial Paper |
| Number: | 4570 237 2017 |

| | |
|-----------------------|-------------------|
| Current Appropriation | \$ 575,217.293 00 |
|-----------------------|-------------------|

| | |
|----------------------|------------------|
| Unencumbered Balance | 161,415,200.16 * |
|----------------------|------------------|

| | |
|-----------------------|-------------------|
| Amount of This Action | <u>(1,437.00)</u> |
|-----------------------|-------------------|

| | |
|-------------------|--------------------------|
| Remaining Balance | <u>\$ 161,413,763.16</u> |
|-------------------|--------------------------|

| | |
|---------------------------|-------------------|
| Current Available Balance | \$ 186,619,300.42 |
|---------------------------|-------------------|

| | |
|------------------------------|------------------------|
| Less Outstanding Commitments | <u>(27,204,100.26)</u> |
|------------------------------|------------------------|

| | |
|--------------------------------|----------------------------|
| Estimated Unencumbered Balance | <u>\$ 161,415,200.16 *</u> |
|--------------------------------|----------------------------|

Utility Finance: _____


David Anders, Utilities Finance Manager

Date: _____

3/1/06

REF. # 4570 237 8598

RESOLUTION NO. 20060323-0

WHEREAS, the City Council of the City of Austin has found that public necessity requires the City of Austin to acquire certain real property interests for public purposes as set out below; and

WHEREAS, the City of Austin has attempted to purchase those needed real property interests but has been unable to agree with the owners on the fair market value thereof; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the City Attorney, or other authorized designee, is hereby authorized and directed to file, or cause to be filed, a suit in eminent domain on behalf of the City of Austin against the owners now having, or who may acquire, an interest in the real property interests needed by the City, described and located below, for the public purposes set out below, and to take whatever other action may be deemed appropriate to economically effect the needed acquisitions.

The City Attorney, or other authorized designee, shall file eminent domain proceedings for:

Owners: H. Michael Giles and PARMER 6, LTD.

Project: Onion Creek/South Lower Boggy Phase II Project, a portion of the Austin Clean Water Program

Intended Purpose: the permanent access easements described in the attached Exhibits "A" and "B" are needed to access adjacent drainage easements for maintenance and to access adjacent permanent wastewater line easements in order to install, inspect, and repair the wastewater lines and appurtenances therein, in order to increase and improve the City's ability to provide sanitary sewer services to the public, to prevent leakage from wastewater lines, and to comply with a federal mandate.

Location: Southeast corner of South 1st Street and Dittmar Road

Property: Described in the attached and incorporated Exhibits A and B.

ADOPTED: March 23, 2006

ATTEST: _____
Shirley A. Gentry
City Clerk